

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action/Discussion Item:

701 KAR 5:031, Repeal of 701 KAR 5:035, Procedures for Record Requests (Final)

Applicable Statute or Regulation:

KRS 61.876, 200 KAR 1:020, KRS 156.070

Action Question:

Should the Kentucky Board of Education give final approval to 701 KAR 5:031?

History/Background:

Existing Policy. The Finance and Administration Cabinet (FAC) is authorized by KRS 61.876(3) to promulgate uniform rules governing public access to public records maintained by administrative agencies of the state government. 200 KAR 1:020 is the FAC's regulation for the purpose of setting the procedures for record requests to all agencies. This administrative regulation establishes the general rules to be followed by all state administrative agencies in affording public access to their records and by persons applying to inspect such records.

Over the years, some agencies elected to promulgate regulations specific to that agency for the purpose of record request procedures. KDE's regulation governing record requests was created in 1992. Because the FAC's regulation is designed for use by all agencies, the Office of Attorney General now recommends that agencies just simply rely upon and reference the FAC regulation and not have a specific regulation regarding record requests. If the KDE regulation were maintained, it becomes superfluous and risks conflicting with the FAC regulation on the same subject matter.

701 KAR 5:031 repeals 701 KAR 5:035. This regulation is no longer necessary and superfluous because of the existence of 200 KAR 1:020.

Staff Recommendation(s) and Rationale(s):

Staff recommends final approval of 701 KAR 5:031. The Office of Attorney General recommends agencies rely on 200 KAR 1:020 and 701 KAR 5:035 is no longer needed.

Impact on Getting to Proficiency:

Repeal of this regulation will streamline the open record process for education stakeholders.

Groups Consulted and Brief Summary of Responses:

The proposed changes have been presented to and approved by the Local Superintendent's Advisory Council (LSAC).

Contact Person:

Kevin C. Brown
General Counsel
564-4474
Kevin.Brown@education.ky.gov

Interim Commissioner of Education

Date:

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